

November 22, 2006



# Acquisition

## Competition of the 5.56-Millimeter Carbine (D-2007-026)

This special version of the report has been revised to omit predecisional and source selection sensitive data.

Department of Defense  
Office of Inspector General

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DEPARTMENT OF DEFENSE  
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ARLINGTON, VIRGINIA 22202-4704

November 22, 2006

MEMORANDUM FOR AUDITOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: Report on the Competition of the 5.56-Millimeter Carbine  
(Report No. D-2007-026) (U)

(U) We are providing this report for review and comment. This report discusses the Army's cancelled competition for a new 5.56-millimeter carbine. We considered management comments on a draft of this report when preparing the final report.

(U) DoD Directive 7650.3 requires that all recommendations be resolved promptly. As a result of management comments, we request that the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) provide comments on the recommendation by December 22, 2006.

(U) If possible, please send management comments in electronic format (Adobe Acrobat file only) to [AudACM@dodig.mil](mailto:AudACM@dodig.mil). Copies of the management comments must contain the actual signature of the authorizing official. We cannot accept the / Signed / symbol in place of the actual signature. If you arrange to send classified comments electronically, they must be sent over the SECRET Internet Protocol Router Network (SIPRNET).

(U) We appreciate the courtesies extended to the staff. Questions should be directed to Mr. John E. Meling at (703) 604-9091 (DSN 664-9091) or Mr. Jack D. Snider at (703) 604-9087 (DSN 664-9087). See Appendix E for the report distribution. The team members are listed inside the back cover.

By direction of the Deputy Inspector General for Auditing:

A handwritten signature in black ink, reading "Richard B. Jolliffe", is centered below the text "By direction of the Deputy Inspector General for Auditing:". The signature is fluid and cursive.

Richard B. Jolliffe  
Assistant Inspector General  
Acquisition and Contract Management

This special version of the report has been revised to omit predecisional and source selection sensitive data.

## Department of Defense Office of Inspector General

Report No. D-2007-026

November 22, 2006

(Project No. D2006-D000AE-0180.000)

### Competition of the 5.56-Millimeter Carbine (U)

#### Executive Summary (U)

**(U) Why You Should Read This Report.** This report discusses an internal control weakness that program offices should address before releasing presolicitation notices to industry.

**(U) Background.** The M4 is a 5.56-millimeter (mm) carbine that allows the individual soldier operating in close quarters to engage targets at extended range with accurate, lethal fire. The M4 carbine can be fitted with many accessories, such as night vision devices, laser pointers, telescopic sights, and the M203 grenade launcher. The Army's M4 carbine is manufactured by Colt Defense LLC. On February 3, 2006, the U.S. Army TACOM Life Cycle Management Command\* issued presolicitation notice W52H09-06-R-0195 for a nondevelopmental 5.56-mm carbine capable of firing U.S. standard M855 and M856 ammunition. The Army issued the presolicitation notice because of the high price for the M4 carbine and the potential to procure a carbine with improved capabilities and performance. The Army planned to award contracts for 193,400 carbines. The estimated procurement cost was \$294.7 million. This report addresses whether Army management followed best business practices when it released the presolicitation notice to industry.

**(U) Results.** The Program Executive Office Soldier, through the U.S. Army TACOM Life Cycle Management Command, prematurely released the presolicitation notice for the competition of the 5.56-mm carbine before it contacted Colt Defense LLC to determine whether it would lower unit prices on future M4 carbines, conducted a business case analysis to determine whether the competition was justified, and obtained approval from senior Army leadership. During the audit, the Program Executive Office completed the business case analysis; however, the analysis did not clearly justify a competition for the 5.56-mm carbine. As a result, the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) cancelled the competition proposed in the presolicitation notice for a nondevelopmental 5.56-mm carbine and associated solicitation. However, the Army's premature release of the presolicitation notice may have resulted in wasted procurement resources associated with the solicitation notice. Therefore, the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) should require program offices to attempt to renegotiate prices with the current manufacturer, perform a business case analysis or equivalent analysis to justify proceeding with a competition, and obtain approval from senior Army leadership that the competition was adequately justified before engaging industry in competition efforts. (See the Finding section of the report for the detailed recommendation.)

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\* (U) Referred to in previous DoD Inspector General reports as the Tank-automotive and Armaments Command.

(U) The Army's internal controls for the 5.56-mm carbine competition were not adequate. We identified a material internal control weakness in the process preceding the release of the presolicitation notice for the carbine competition.

**(U) Management Comments and Audit Response.** We received comments from the Army Deputy for Acquisition and Systems Management, responding for the Assistant Secretary of the Army (Acquisition, Logistics, and Technology). The Deputy for Acquisition and Systems Management commented on statements in a draft of this report. However, he neither concurred nor nonconcurred with the recommendation concerning renegotiating prices with the current manufacturer, justifying proceeding with a competition, and obtaining approval from senior Army leadership before engaging industry in competition efforts. See the Finding section of the report for a discussion of the management comments and the Management Comments section of the report for the complete text of the comments.

(U) Implementing our recommendation will establish internal controls within the Army to ensure that a competition action to lower the unit price on a preexisting acquisition is warranted, that senior Army leadership supports and has a requirement for that action, and that such action is prudent and provides the best value for the warfighter and the American taxpayer. Therefore, we request that the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) provide comments on the recommendation by December 22, 2006.

# Table of Contents

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<b>Executive Summary</b>	i
<b>Background</b>	1
<b>Objectives</b>	2
<b>Review of Internal Controls</b>	2
<b>Finding</b>	
Release of the Presolicitation Notice for a New 5.56-Millimeter Carbine	3
<b>Appendixes</b>	
A. Scope and Methodology	9
Prior Coverage	10
B. Glossary	11
C. Other Matters of Interest	13
D. Management Comments on the Overall Report and Finding and Audit Response	15
E. Report Distribution	20
<b>Management Comments</b>	
Department of the Army	23

(U)



Source: Wikipedia Online Encyclopedia ([http://en.wikipedia.org/wiki/M4\\_carbine](http://en.wikipedia.org/wiki/M4_carbine))

(U) **M4 Carbine With Selected Attachments**



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## Background

(U) This report discusses whether Army management followed best business practices when it released to industry the presolicitation notice for the competition of the 5.56-millimeter (mm) carbine. On February 3, 2006, the U.S. Army TACOM Life Cycle Management Command<sup>1</sup> issued presolicitation notice W52H09-06-R-0195 for a nondevelopmental 5.56-mm carbine capable of firing U.S. standard M855 and M856 ammunition. The Army issued the presolicitation because of the high price for the M4 carbine and the potential to procure a carbine with improved capabilities and performance. The Army planned to procure 53,000 M4 carbines and 140,400 5.56-mm carbines, for a total of 193,400 carbines. The estimated procurement cost was \$294.7 million. Appendix B is a glossary of technical terms used in this report.

(U) **M4 Carbine.** The M4 carbine allows a soldier operating in close quarters to engage targets at extended range with accurate, lethal fire. A carbine is a version of the standard service rifle that is reduced in length and weight while firing the standard 5.56-mm service rounds of ammunition, the M855 and M856. As a replacement for the pistol, its purpose is to provide enhanced firepower in terms of increased accuracy, range, lethality, and volume of fire. It is also designed to be more portable than the standard rifle. The M4 carbine can be fitted with many accessories, such as night vision devices, laser pointers, telescopic sights, and the M203 grenade launcher, as shown in the figure on the opposite page. Colt Defense LLC (Colt) manufactures the Army's M4 carbine.

(U) **Assistant Secretary of the Army (Acquisition, Logistics, and Technology).** The Assistant Secretary of the Army (Acquisition, Logistics, and Technology), as the Army Acquisition Executive, is responsible for acquisition matters within the Department of the Army and is the single decision authority for all Army acquisition matters. The Army Acquisition Executive administers acquisition programs in accordance with DoD policies and guidelines and develops acquisition policies and procedures. Program Executive Officers report to and receive guidance and direction from the Army Acquisition Executive.

(U) **Program Executive Office Soldier.** The competition of the 5.56-mm carbine is under the purview of the Program Executive Office Soldier. The Program Executive Office develops, procures, fields, and sustains practically everything the soldier wears or carries. Reporting to the Program Executive Office Soldier is the Project Manager Soldier Weapons. Project Manager Soldier Weapons supports soldiers through the development, production, and procurement of future and current weapon systems, ammunition, and related target acquisition and fire control products.

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<sup>1</sup> (U) Referred to in previous DoD Inspector General reports as the Tank-automotive and Armaments Command.

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## **Objectives (U)**

(U) Our overall audit objective was to evaluate whether the Army justified the competition for a new 5.56-mm carbine and was effectively preparing for a low-rate initial production decision and a full-rate production decision. We also evaluated the managers' internal controls as they related to the overall audit objective. See Appendix A for a discussion of the scope and methodology and Appendix C for a discussion of other matters of interest.

## **Review of Internal Controls (U)**

(U) We determined that a material internal control weakness in the Program Executive Office Soldier existed as defined by DoD Instruction 5010.40, "Managers' Internal Control (MIC) Program Procedures," January 4, 2006. The DoD 5000 series of guidance requires the program manager and the milestone decision authority to exercise discretion and prudent business judgment to structure a tailored, responsive, and innovative program. The release of a presolicitation notice for the 5.56-mm carbine competition before contacting Colt to determine whether Colt would lower unit prices, conducting a business case analysis to justify proceeding with the competition, and obtaining approval from senior Army leadership is not a best business practice. Implementing our recommendation will improve controls by requiring price negotiations with the current manufacturer, a business case analysis or equivalent analysis to justify proceeding with a competition, and approval from senior Army leadership before engaging industry in competition efforts. We will provide a copy of this report to the senior Army official responsible for internal controls in the Department of the Army.

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## Release of the Presolicitation Notice for a New 5.56-Millimeter Carbine (U)

(U) The Program Executive Office Soldier, through the U.S. Army TACOM Life Cycle Management Command, prematurely released the presolicitation notice for the competition of the 5.56-mm carbine before it contacted Colt to determine whether Colt would lower unit prices, conducted a business case analysis to determine whether the competition was justified, and obtained senior Army leadership approval that the competition was clearly justified. After releasing the presolicitation notice, the Program Executive Office Soldier completed a business case analysis. Based on the results of that analysis, the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) cancelled the competition proposed in the presolicitation notice for a nondevelopmental 5.56-mm carbine and associated solicitation. The Program Executive Office Soldier's premature release of the presolicitation notice was a bad business practice and may have resulted in wasted procurement resources associated with the presolicitation notice.

## Innovative Practices and Prudent Business Judgment (U)

(U) DoD Directive 5000.1, "The Defense Acquisition System," May 12, 2003; and DoD Instruction 5000.2, "Operation of the Defense Acquisition System," May 12, 2003, provide guidance concerning innovative practices and prudent business judgment. Army Regulation 70-1, "Army Acquisition Policy," December 31, 2003, implements DoD Directive 5000.1 and DoD Instruction 5000.2.

(U) **DoD Directive.** DoD Directive 5000.1 requires milestone decision authorities and project managers to examine and, as appropriate, adopt innovative practices, including best commercial practices and electronic business solutions, that reduce cycle time and cost, and encourage teamwork.

(U) **DoD Instruction.** DoD Instruction 5000.2 requires the milestone decision authority and the program manager to use discretion and prudent business judgment to structure a tailored, responsive, and innovative program.

(U) **Army Regulation.** Army Regulation 70-1 governs research, development, acquisition, and life-cycle management of Army materiel to satisfy approved Army requirements. It contains internal control provisions and identifies key internal controls that must be evaluated. The Assistant Secretary of the Army (Acquisition, Logistics, and Technology) is responsible for suggested changes to Army Regulation 70-1.

## Release of the Presolicitation Notice for the 5.56-mm Carbine (U)

(U) **Presolicitation Notice.** On February 3, 2006, the U.S. Army TACOM Life Cycle Management Command, Rock Island, Illinois, on behalf of the Program Executive Office Soldier, issued presolicitation notice W52H09-06-R-0195 to prospective offerors. The presolicitation notice described a requirement for a nondevelopmental 5.56-mm carbine capable of firing U.S. standard M855 and M856 ammunition.

(U) The presolicitation notice stated that the acquisition of the 5.56-mm carbine would be a capabilities-based competition to a performance requirement, not a detailed design technical data package. The performance requirements that are described in the presolicitation notice are based on the requirements from the M4 Carbine Required Operational Capability, dated January 25, 1990. The requirements for the 5.56-mm carbine, as specified in the presolicitation notice, included a minimum barrel life of 10,000 rounds; weight not exceeding 6.5 pounds when unloaded; a sustained rate of fire greater than or equal to 45 rounds per minute without degrading reliability; compatible with the M203 under-barrel 40-mm grenade launcher; Military Standard 1913 rails; and compatible with currently fielded sighting, aiming, and illuminating devices. Further, the presolicitation notice stated that the U.S. Army TACOM Life Cycle Management Command, Rock Island, would release a request for proposals on its Web site on or about March 20, 2006.

(U) **M4 Price Reduction.** On February 24, 2006, the Executive for Contracting, U.S. Army TACOM Life Cycle Management Command, on behalf of the Program Executive Office Soldier, issued a letter to Colt that stated that the two principal reasons for the presolicitation notice were the high price for the M4 carbine and the potential to procure a carbine with improved capabilities and performance. The Executive for Contracting also stated that the current price for the M4 carbine was high compared with other rifle prices. Further, the Executive for Contracting stated that the Army would conduct a cost-benefit analysis to determine whether to continue the acquisition of the M4 carbine. In conclusion, the Executive for Contracting requested that Colt propose a price reduction for the M4.

(U) On March 3, 2006, the President and Chief Executive Officer, Colt, responded to the Executive for Contracting's letter. The President and Chief Executive Officer proposed a revised price structure for the M4 carbine through December 31, 2007. The President and Chief Executive Officer stated that if the Government provided Colt with their future procurement plans, then Colt could possibly provide a stronger price reduction for the M4 carbine.

(U) On March 6, 2006, the Executive for Contracting sent an e-mail response to the letter from Colt. The Executive for Contracting discussed M4 carbine annual procurement quantities for FYs 2007 through 2009.

(U) On March 14, 2006, the President and Chief Executive Officer, Colt, responded to the e-mail from the Executive for Contracting. He proposed a

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further M4 carbine unit price reduction for FYs 2008 through 2009 and beyond. Colt's revised price reduction for the M4 carbine would reach approximately \* percent by 2009.

**(U) Business Case Analysis.** In April 2006, the Program Executive Office Soldier completed a business case analysis to determine whether a competition for the 5.56-mm carbine was justified. The business case analysis evaluated six competition options for the acquisition of 5.56-mm carbines and compared them based on \* \*. The options included:

- \* \* \*
- 
- \* \*
- 
- \* \*
- 

(U) Based on the business case analysis results, the Program Executive Office Soldier concluded that the best \* \*

**(U) Senior Army Leadership Decision.** On April 27, 2006, the Deputy Program Executive Officer Soldier briefed the business case analysis results to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology). The Assistant Secretary determined that the results of the business case analysis "were not sufficiently discriminatory to justify competition." In addition, he directed the Program Executive Office Soldier to negotiate further M4 carbine unit price reductions with Colt and to sole-source with Colt to continue supplying soldiers with M4 carbines. In addition, the Assistant Secretary stated that if Colt provides M4 carbines at a reasonable price to the Army, the Army will continue to purchase M4 carbines through June 2009 or until the Joint Requirements Oversight Council approves a new requirement for a carbine. Accordingly, on April 27, 2006, the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) cancelled the competition proposed in the presolicitation notice.

(U) On June 12, 2006, the Deputy Chief of Staff (G-3/5/7) issued a memorandum to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) in which he stated that the Army's introduction of a new carbine design without

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\* (U) Predecisional and source selection sensitive data omitted.

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significantly improved performance was unacceptable and that the Army did not have a requirement for higher performance on which to base a competition. Further, the Deputy Chief of Staff (G-3/5/7) stated that soliciting any requirement for a carbine capability, including potential schedule slippages, different operational characteristics, or the inadvertent introduction of new parts and assemblies that may not be fully interchangeable with the current M4 carbine design and stocked items, has unacceptable risks.

**(U) Notification of Cancellation.** On June 15, 2006, the U.S. Army TACOM Life Cycle Management Command notified industry that the competition proposed in the presolicitation notice was cancelled.

## **Effects of Prematurely Releasing the Presolicitation Notice (U)**

**(U) Resource Expenditures.** Prematurely releasing the presolicitation notice for the competition of the 5.56-mm carbine may have resulted in wasted procurement resources associated with the presolicitation notice before the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) cancelled it.

**(U) Contractor Suggestions.** A representative from one of the offerors responding to the presolicitation notice expressed concern that the Government often engages industry for its response to a solicitation and then cancels the competition. The representative suggested that the Government conduct more complete “staffing” of either a solicitation or presolicitation notice before issuing those documents so that the Defense industry is not needlessly energized. A representative from another offeror suggested that the Government thoroughly review and approve a solicitation so that the solicitation is final once it is issued.

**(U) Competition Cancellations.** The Army’s cancellation of the competition proposed in the presolicitation notice was the second carbine solicitation that the Army cancelled within one year after having notified potential offerors of a forthcoming competition. The Army also cancelled the request for proposals for the development and production of the Objective Individual Combat Weapon Increment I family of weapons.<sup>2</sup>

## **Conclusion (U)**

(U) The Program Executive Office Soldier, through the U.S. Army TACOM Life Cycle Management Command, entered into negotiations with Colt to lower the price for the M4 carbine after issuing the presolicitation notice. As a result, the price reductions offered by Colt affected the results of the business case analysis to the point that the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) determined that a competition would not yield significant benefits to the Army. If the Program Executive Office Soldier had renegotiated unit prices with Colt, completed its business case analysis, and obtained approval from

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<sup>2</sup> (U) See DoD Inspector General Audit Report No. D-2006-004, “Acquisition of the Objective Individual Combat Weapon,” October 7, 2005, for further details.

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senior leadership before issuing the presolicitation notice, the Army may have obtained a lower price for the M4 carbine, avoided wasting procurement resources, and avoided having to cancel a second carbine solicitation within a year.

## **Management Comments on the Finding and Audit Response (U)**

(U) Summaries of management comments on the finding and audit responses are in Appendix D.

## **Recommendation, Management Comments, and Audit Response (U)**

**(U) We recommend that the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) revise Army Regulation 70-1, “Army Acquisition Policy,” December 31, 2003, to require program offices to attempt to renegotiate prices with the current manufacturer, perform a business case analysis or equivalent analysis to justify proceeding with a competition, and obtain senior Army leadership approval that a competition is adequately justified before engaging industry in competition efforts.**

**(U) Management Comments.** The Army Deputy for Acquisition and Systems Management, responding for the Assistant Secretary of the Army (Acquisition, Logistics, and Technology), neither concurred nor nonconcurred with the recommendation. However, the Deputy stated in comments on the finding that the Program Executive Office Soldier followed proper procedures in considering full and open competition. Further, he stated that a business case analysis is normally conducted only to justify an acquisition using other than full and open competition. He stated that the business case analysis was initiated without Colt’s input; however, after receiving Colt’s revised pricing, those prices were included in the business case analysis. The Deputy also stated that the Army did not attempt to justify a decision without complete data. Further, he stated that the Program Executive Office Soldier used prudent business judgment and best commercial practices to obtain the best information during the analysis so that Army Acquisition Executive could make an informed decision. For the complete text of the Deputy’s comments, see the Management Comments section of this report.

**(U) Audit Response.** The Army’s comments were not responsive. By not contacting Colt to determine whether Colt would lower unit prices on future M4 carbines, conducting a business case analysis to determine whether the competition was justified, and obtaining approval from senior Army leadership before the release of the presolicitation notice, the Program Executive Office Soldier did not use prudent business judgment and best commercial practices and wasted procurement resources. To preclude such improper contracting actions from occurring in the future, the Assistant Secretary needs to establish and implement internal controls within the Army to ensure that a competition action to lower the unit price on a preexisting acquisition is warranted and that senior

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Army leadership supports and has a requirement for that action. By following those procedures, the Assistant Secretary will foster acquisition actions that provide the best value for the warfighter and the American taxpayer.

(U) Because the Deputy for Acquisition and Systems Management did not specifically comment on the recommendation, we request that the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) provide comments on the recommendation by December 22, 2006.



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## Appendix A. Scope and Methodology (U)

(U) We reviewed the following documentation dated from January 1990 through April 2006 to accomplish the audit objectives:

- competition documents, including presolicitation notice W52H09-06-R-0195, February 3, 2006; and the Carbine Competition Business Case Analysis, April 27, 2006;
- program documents, including the M4 carbine required operational capability document, January 25, 1990; and the Acquisition Strategy Report and Acquisition Plan for the 5.56-mm Carbine Program FY 2006-2011; and
- correspondence between Colt Defense LLC and the Army on June 27, 2001; February 24, 2006; March 3, 2006; March 6, 2006; and March 14, 2006.

(U) We also contacted the staff of the Offices of the Under Secretary of Defense for Acquisition, Technology, and Logistics; the Joint Staff (J-8); the U.S. Army Training and Doctrine Command; the Assistant Secretary of the Army (Acquisition, Logistics, and Technology); the U.S. Army TACOM Life Cycle Management Command; the U.S. Army Test and Evaluation Command; the Deputy Chief Staff (G-3/5/7); the Deputy Chief of Staff (G-8); the U.S. Army Infantry Center; the Deputy Program Executive Office Soldier; and the contractors that expressed interest in the presolicitation notice to determine:

- whether DoD or the Army had acquisition procedures for the recompetition of an approved requirement that could result in a new materiel solution,
- whether the user representatives supported the Army's decision to conduct a competition for the 5.56-mm carbine,
- whether the Government expended resources on preparing and issuing the presolicitation notice,
- what level of testing would have been required for the winner of the competition,
- whether funds were available to meet the required procurement quantities,
- the purpose of the 5.56-mm carbine competition,
- the status of the business case analysis, and
- the amount of resources spent by the contractors in preparing responses to the presolicitation notice.

(U) We performed this audit from March 2006 through September 2006 in accordance with generally accepted government auditing standards.

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(U) **Use of Computer-Processed Data.** We did not use computer-processed data to perform this audit.

(U) **Government Accountability Office High-Risk Area.** The Government Accountability Office has identified several high-risk areas in DoD. This report provides coverage of the DoD Weapon Systems Acquisition high-risk area.

## **Prior Coverage (U)**

(U) During the last 5 years, the DoD Inspector General issued a report related to the Army's cancellation of a solicitation after having notified potential offerors of a forthcoming competition. Unrestricted DoD Inspector General Reports can be accessed at <http://www.dodig.mil/audit/reports>.

DoD Inspector General Report No. D-2006-004, "Acquisition of the Objective Individual Combat Weapon," October 7, 2005

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## Appendix B. Glossary (U)

(U) **Acquisition Strategy.** An acquisition strategy is a management approach designed to achieve program objectives within the resource constraints imposed. It is the framework for planning, directing, contracting for, and managing a program.

(U) **Business Case Analysis.** A business case analysis is the process used to make an investment decision. A business case provides the information necessary to make a decision about whether an initiative or project should proceed. It includes an examination of all the costs, benefits, and risks associated with a proposed investment, and offers reasonable choices and alternatives.

(U) **Full and Open Competition.** Full and open competition enables all responsible offerors to participate in a competition.

(U) **Full-Rate Production.** Full-rate production is contracting for economic production quantities following stabilization of the system design and validation of the production process.

(U) **Low-Rate Initial Production.** Low-rate initial production establishes an initial production base for the system, permits an orderly ramp-up sufficient to lead to a smooth transition to full-rate production, and provides production-representative articles for initial operational test and evaluation and live-fire testing.

(U) **Milestone Decision Authority.** The milestone decision authority is the designated individual who has the overall responsibility for a program and is accountable for cost, schedule, and performance reporting to higher authority. The milestone decision authority has the authority to approve the program's entry into the next phase of the acquisition process.

(U) **Military Standard 1913 Rails.** Military Standard 1913 rails are brackets used on some firearms. The brackets provide a standardized mounting platform for accessories such as tactical lights and laser sighting modules.

(U) **Nondevelopmental Item.** A nondevelopmental item is any previously developed item used exclusively for government purposes by a Federal agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement. These items require only minor modifications or modifications of the type customarily available in the commercial marketplace to meet the requirements of the processing department or agency.

(U) **Operational Requirements Document.** An operational requirements document lists the performance parameters for the proposed concept or system.

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(U) **Presolicitation Notice.** A presolicitation notice provides a general description of the scope or purpose of the acquisition. It invites potential offerors to submit information that allows the Government to advise the offerors about their potential to be viable competitors.

(U) **Required Operational Capability Document.** Required operational capability documents were replaced by operational requirements documents in February 1991. Both documents state concisely the minimum essential operational, technical, personnel, safety, health, human factors engineering, training, logistics, and cost information necessary to initiate the full-scale development phase or procurement of a materiel system.

(U) **Request for Proposals.** A request for proposals is a solicitation used in negotiated acquisition to communicate Government requirements to prospective contractors and to solicit proposals.

(U) **Sole-Source Contracting.** Sole-source contracting is used for the purchase of supplies or services that is entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source.

(U) **Technical Data Package.** A technical data package is a description of an item adequate for supporting an acquisition strategy, production, and engineering and logistics support. A technical data package consists of applicable data such as models, drawings, associated lists, specifications, standards, performance requirements, quality assurance requirements, software documentation, and packaging details.

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## Appendix C. Other Matters of Interest (U)

(U) This appendix discusses three matters of interest for Army management's attention. During the audit, we identified a funding shortage of the M4 carbine for FY 2007, a 16-year old requirement document that the Army used for the competition of the 5.56-mm carbine, and a legal settlement between the U.S. Government and Colt. A discussion of those matters follows.

### FY 2007 Funding for the M4 Carbine (U)

(U) According to a representative from the Office of the Deputy Chief of Staff (G-8), the Army required \$90 million in procurement funds in FY 2007 to equip soldiers in brigade combat teams with M4 carbines; however, Army funding for the M4 carbine was only \$2.2 million for FY 2007, as of September 14, 2006. The Army requested \$9.3 million of Objective Individual Combat Weapon Increment I FY 2007 procurement funding be reallocated to the M4 carbine. In addition, the representative stated that the Army planned to request the needed funds in the FY 2007 supplemental budget.

### M4 Carbine Required Operational Capability (U)

(U) The Program Executive Office Soldier based the presolicitation notice on the M4 carbine required operational capability document from 1990. If the Program Executive Office Soldier had included improved capabilities or modifications in the competition for the 5.56-mm carbine that were not defined in the approved M4 carbine required operational capability document, then the Program Executive Office Soldier would have had to obtain an updated requirements document, according to representatives of the Under Secretary of Defense for Acquisition, Technology, and Logistics; the Assistant Secretary of the Army (Acquisition, Logistics, and Technology); the Deputy Chief Staff (G-3/5/7); and the Joint Staff (J-8). Further, the representatives from the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Joint Staff (J-8) stated that the updated requirements document would have to be in the format specified by Chairman of the Joint Chiefs of Staff Instruction 3170.01E, "Joint Capabilities Integration and Development System," May 11, 2005.

(U) The 1990 M4 carbine required operational capability document may not fully reflect the capabilities of the M4 carbine as it performs today. A representative from the U.S. Army Infantry Center stated that as a result of technical and engineering changes, the M4 carbine currently performs better than the capabilities described in the M4 carbine required operational capability document.

### M4 Carbine Legal Settlement (U)

(U) **M4 Carbine Technical Data Package.** In June 1967, Colt and the Government entered into a patent license agreement for the M16 rifle. In March

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1985, Colt and the Government extended the license agreement to include the M4 carbine because the M4 carbine was a derivative of the M16 rifle. The license agreement gave the Government limited rights to the technical data and placed restrictions on its use. The license agreement included a provision that limits the Army's right to transfer or release the technical data package.

**(U) Inappropriate Release of the M4 Carbine Technical Data Package.** DoD Inspector General Report No. 97-165, "Procurement of the M4 Carbine," June 17, 1997, stated that, in January 1996, the Army released the M4A1 carbine technical data package to the Navy. The Navy requested the technical data package for internal use, but inappropriately released it in August 1996 to contractors in a solicitation for M4A1 adapter kits. Further, the report stated that the Army and Navy failed to protect the confidentiality of Colt's technical data package and had inadequate controls to safeguard Colt's proprietary data. The report concluded that the M4A1 technical data package was inappropriately released to contractors for purposes outside the scope of the M4 license agreement.

**(U) Lawsuit Regarding the Inappropriate Release of the M4 Carbine Technical Data Package.** Colt filed a lawsuit against the Government regarding the rights and responsibilities of each party under License Agreement DAAF03-67-C-0108. On December 24, 1997, as a result of the legal settlement, the Government and Colt entered into an addendum to the Technical Data Sales and Patent License for the M4 carbine which clarified the safeguards to be undertaken by the Government with respect to control and dissemination of licensed technology. M4 carbine licensed technology includes proprietary data, improvements, and intellectual property. Proprietary data includes the technical data package.

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## Appendix D. Management Comments on the Overall Report and Finding and Audit Response (U)

(U) Our detailed response to the comments from the Army Deputy for Acquisition and Systems Management, responding for the Assistant Secretary of the Army (Acquisition, Logistics, and Technology), on statements in a draft of this report follow. The complete text of those comments is in the Management Comments section of this report.

**(U) Comments on the Release of the Presolicitation Notice.** The Deputy commented on the draft report statement that:

The Program Executive Office Soldier, through the U.S. Army Tank-automotive and Armaments Command [U.S. Army TACOM Life Cycle Management Command], prematurely released the presolicitation notice for the competition of the 5.56-millimeter carbine before it contacted Colt Defense LLC to determine whether it would lower unit prices on future M4 carbines, conducted a business case analysis to determine whether the competition was justified, and obtained approval from senior Army leadership.

The Deputy stated that the primary reason Colt decided to consider and eventually lower the unit prices on future M4 carbines was because the Program Executive Office Soldier issued the presolicitation notice before contacting Colt. He stated that Colt has been the Army's sole-source contractor for the M4 since 1993 and had not shown a desire to consider a price reduction before the release of the presolicitation notice. The Deputy stated that the M4 unit price increased from \$523.84 in 2001 to \$980 in 2005. He stated that the Army cannot force a supplier to make their processes more efficient. The Deputy stated that Colt had continued to increase costs and had not been willing to lower prices.

(U) The Deputy stated that the Competition in Contracting Act, the President's Management Agenda, and other statutes and policy documents recommend full and open competition as the preferred method of acquisition. He also stated that the Program Executive Office Soldier followed proper procedures in considering full and open competition.

(U) The Deputy stated that a business case analysis is normally conducted only to justify an acquisition using other than full and open competition. He stated that although a business case analysis for the acquisition of a nondevelopmental 5.56-mm carbine was not required, the Military Deputy to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) requested that such an analysis be conducted. The Deputy stated that the Program Executive Officer agreed with the Military Deputy's request and directed the Project Manager to conduct it. The Deputy stated that the business case analysis was initiated without Colt's input; however, after receiving Colt's revised pricing, those prices were included in the business case analysis.

(U) Accordingly, the Deputy stated that the Army did not attempt to justify a decision without complete data. The Deputy stated that the Program Executive

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Office Soldier used prudent business judgment and best commercial practices to obtain the best information so that Army Acquisition Executive could make an informed decision.

**(U) Audit Response.** In reference to the FY 2004 procurement action for M4s, Colt's price for the M4 was considered reasonable. Specifically, in 2004, the Defense Contract Audit Agency determined that Colt's M4 price proposal was acceptable for the negotiation of a fair and reasonable price. Also, according to a representative from the U.S. Army TACOM Life Cycle Management Command, Rock Island, Illinois, which was responsible for M4 contract actions, the Army had not contacted Colt to officially request a price reduction for the M4 before the U.S. Army TACOM Life Cycle Management Command issued the presolicitation notice. Although the Program Executive Office Soldier achieved positive price reductions for the M4 carbine by releasing the presolicitation notice, it may have been able to achieve the same price reductions by formally negotiating with Colt before releasing the presolicitation notice and energizing industry.

(U) Although we agree that full and open competition is the preferred acquisition method, competition should only be initiated after the milestone decision authority and program manager use discretion and prudent business judgment to structure a tailored, responsive, and innovative program. By not negotiating with the contractor, conducting a business case analysis, and obtaining senior leadership approval of the requirement and the competition before releasing the presolicitation notice, the Program Executive Office Soldier did not use discretion or prudent business judgment. The premature release of the presolicitation notice may have resulted in wasted procurement resources.

**(U) Comments on Internal Controls.** The Deputy commented on the draft report statement that "The Army's internal controls for the 5.56-millimeter carbine competition were not adequate. We identified a material internal control weakness in the process preceding the release of the presolicitation notice for the carbine competition." The Deputy stated that the internal controls were adequate for the 5.56-mm carbine competition and that no material internal control weaknesses existed. He also stated that the process consisted of high-level integrated product team meetings among Program Executive Office Soldier personnel; the U.S. Army TACOM Life Cycle Management Command, Rock Island, Illinois, and Picatinny Arsenal acquisition executives; the Principal Assistant Responsible for Contracting; and legal departments.

(U) The Deputy stated that the presolicitation notice notified industry that the Army intended to competitively acquire a 5.56-mm carbine based on an existing performance requirement and that a request for proposals would be issued later. The Deputy stated that industry was not required to respond to the presolicitation notice or to expend any resources. In addition, he stated that the presolicitation notice was an advance announcement of a potential solicitation, similar to an Advanced Planning Briefing to Industry Conference, which identifies future opportunities to industry. The Deputy reiterated this point later in his comments.



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**(U) Audit Response.** The high-level integrated product team would have used prudent business judgment and best commercial practices had they established internal controls for the process preceding the release of the presolicitation notice for the carbine competition. The team would have ensured that the Program Executive Officer Soldier:

- contacted Colt to determine whether Colt would lower unit prices on future M4 carbines,
- conducted a business case analysis to determine whether the competition was justified, and
- obtained approval of a requirement for the action from senior Army leadership before releasing the presolicitation notice.

(U) Although industry was not required to respond to the presolicitation notice or to expend any resources, the short timeframe to respond to the request for proposals encouraged potential offerors to begin preparations for submitting their proposals. The presolicitation notice issued February 3, 2006, stated that “a Request for Proposal (RFP), W52H09-06-R-0195, will be posted on the TACOM-Rock Island Acquisition Center website . . . on or about 20 March 2006,” which was only 7 weeks after the presolicitation notice was issued. The presolicitation notice also stated that “proposals, along with seven (7) bid samples, are required to be delivered within thirty (30) days from the date the request for proposal is released.”

**(U) Comments on the Army Acquisition Executive as Milestone Decision Authority.** The Deputy commented on the background information in the draft report concerning Assistant Secretary of the Army (Acquisition, Logistics, and Technology) responsibilities. The Deputy discussed the Assistant Secretary’s “blanket designation” process for assigning a program executive officer to an Acquisition Category III program (less than major system) and stated that because the carbine program was an Acquisition Category III program, the Program Executive Officer Soldier was within his scope of authority to release the presolicitation notice.

**(U) Audit Response.** The information in the draft report concerning the Assistant Secretary was background information regarding his role in the system acquisition process. We agree that as the Army Acquisition Executive, the Assistant Secretary has the authority to delegate milestone decision authority for Acquisition Category III programs to a program executive officer and that the Program Executive Officer Soldier had the authority to initiate the competition.

**(U) Comments on the Cancelled Requirement.** The Deputy disagreed with the draft report statement that “the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) cancelled the requirement for a nondevelopmental 5.56-mm carbine and associated solicitation.” The Deputy stated that the Assistant Secretary did not cancel the requirement for a nondevelopmental 5.56-mm carbine. The Deputy stated that the Assistant Secretary cancelled the need for a competition in order to satisfy the requirement. In addition, the Deputy stated that the Army will continue to procure 5.56-mm carbines.

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**(U) Audit Response.** We modified the report to clarify that the requirement for a carbine was not cancelled, but that the competition proposed in the presolicitation notice was cancelled.

**(U) Comments on Resource Expenditures.** The Deputy commented on the draft report statement that:

Prematurely releasing the presolicitation notice for the competition of the 5.56-mm carbine may have resulted in the unnecessary use of resources. Specifically, potential offerors may have expended resources in preparing responses to the presolicitation notice before the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) cancelled it. In addition, the Government spent time and effort issuing the presolicitation notice.

The Deputy stated that the Government's time and effort in issuing the notice was a normal operating cost for the program manager to fulfill an existing performance requirement. Additionally, he stated that the Army's return on investment in a lower unit price from Colt outweighed the time spent in preparing and issuing the notice.

**(U) Audit Response.** Although the Program Executive Office Soldier's efforts achieved positive price reductions on the M4 carbine, prudent planning, including the completion of the business case analysis and negotiation with Colt, may have avoided needlessly energizing procurement resources with the release of the presolicitation notice.

**(U) Comments on Contractor Suggestions.** The Deputy commented on the draft report statement that:

A representative from one of the offerors responding to the presolicitation notice expressed concern that the Government often engages industry for its response to a solicitation and then cancels the competition. The representative suggested that the Government conduct more complete 'staffing' of either a solicitation or presolicitation notice before issuing those documents so that the Defense industry is not needlessly energized.

The Deputy stated that the Army did not release a solicitation; therefore, responses from industry were not necessary. He also stated that the presolicitation notice was properly staffed from the Project Manager's office through the contract and legal offices at the Picatinny Arsenal and the U.S. Army TACOM Life Cycle Management Command and through the Program Executive Office Soldier.

**(U) Audit Response.** As previously discussed, although industry was not required to respond to the presolicitation notice or to expend any resources, the short timeframe to respond to the request for proposals encouraged potential offerors to begin preparations for submitting their proposals.

(U) Even though the Deputy believes that the presolicitation notice was properly staffed, the presolicitation notice should have been staffed with senior Army leadership, including the Deputy Chief of Staff (G-3/5/7) to determine whether a new carbine design would be acceptable, especially during a time of war. After the presolicitation notice was issued, the Deputy Chief of Staff (G-3/5/7) issued a

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memorandum to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) in which he stated that:

- the introduction of a new carbine design without significantly improved performance was unacceptable;
- the Army did not have a requirement for higher performance on which to base a competition; and
- soliciting any requirement for a carbine capability, including potential schedule slippages, different operational characteristics, or the inadvertent introduction of new parts and assemblies that may not be fully interchangeable with the current M4 carbine design and stocked items, has unacceptable risks.

**(U) Comments on Presolicitation Notice Definition.** The Deputy disagreed with the definition of presolicitation notice in the report, which states a presolicitation notice “invites potential offerors to submit information that allows the Government to advise the offerors about their potential to be viable competitors.” The Deputy stated that the presolicitation notice definition in the report was a partial description of an announcement for a market survey, sources sought, or both. He stated that a presolicitation notice is issued to industry as advance notification that a potential request for proposals is planned for the future. Further, the Deputy stated that a presolicitation notice is not used to advise contractors about their potential to be viable competitors.

**(U) Audit Response.** Neither the Federal Acquisition Regulation nor the Defense Federal Acquisition Regulation define the terms “market survey” or “sources sought.” Our definition of the “presolicitation notice” is from the Federal Acquisition Regulation Subpart 15.2, “Solicitation and Receipt of Proposals and Information,” which states that:

The agency may publish a presolicitation notice that provides a general description of the scope or purpose of the acquisition and invites potential offerors to submit information that allows the Government to advise the offerors about their potential to be viable competitors. The presolicitation notice should identify the information that must be submitted and the criteria that will be used in making the initial evaluation. . . . At a minimum, the notice shall contain sufficient information to permit a potential offeror to make an informed decision about whether to participate in the acquisition.

Although the presolicitation notice for a nondevelopmental 5.56-mm carbine capable did not invite potential offerors to respond to the presolicitation notice, the notice did cause procurement resources to be wasted in anticipation of the request for proposals, as stated previously.

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## **Appendix E. Report Distribution (U)**

### **Office of the Secretary of Defense**

Under Secretary of Defense for Acquisition, Technology, and Logistics  
Director, Acquisition Resources and Analysis  
Under Secretary of Defense (Comptroller)/Chief Financial Officer  
Deputy Chief Financial Officer  
Deputy Comptroller (Program/Budget)  
Director, Program Analysis and Evaluation  
Director, Defense Procurement and Acquisition Policy

### **Joint Staff**

Director, Joint Staff  
Director for Force Structure, Resources, and Assessment (J-8)

### **Department of the Army**

Commander, Army Training and Doctrine Command  
Commanding General, Army Infantry Center  
Assistant Secretary of the Army (Acquisition, Logistics, and Technology)  
Program Executive Officer Soldier  
Project Manager Soldier Weapons  
Assistant Secretary of the Army (Financial Management and Comptroller)  
Commander, Army TACOM Life Cycle Management Command  
Commander, Army Test and Evaluation Command  
Deputy Chief of Staff (G-3/5/7)  
Deputy Chief of Staff (G-8)  
Auditor General, Department of the Army

### **Department of the Navy**

Naval Inspector General  
Auditor General, Department of the Navy

### **Department of the Air Force**

Auditor General, Department of the Air Force

### **Other Defense Organizations**

Director, Defense Contract Audit Agency

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## **Non-Defense Federal Organization**

Office of Management and Budget

## **Congressional Committees and Subcommittees, Chairman and Ranking Minority Member**

Senate Committee on Appropriations  
Senate Subcommittee on Defense, Committee on Appropriations  
Senate Committee on Armed Services  
Senate Committee on Homeland Security and Governmental Affairs  
House Committee on Appropriations  
House Subcommittee on Defense, Committee on Appropriations  
House Committee on Armed Services  
House Committee on Government Reform



# Department of the Army Comments (U)



SAAL-SMS

DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY  
ACQUISITION LOGISTICS AND TECHNOLOGY  
103 ARMY PENTAGON  
WASHINGTON DC 20310-0103

OCT 24 2006

MEMORANDUM FOR PRINCIPAL DIRECTOR FOR ACQUISITION AND CONTRACT  
MANAGEMENT, OFFICE OF THE INSPECTOR GENERAL,  
DEPARTMENT OF DEFENSE, 400 ARMY NAVY DRIVE,  
ARLINGTON, VA 22202

SUBJECT: Response to the Draft Report on the Competition of the 5.56-millimeter  
Carbine Weapon (Project No. D2006-D000AE-0180 000)

In response to your request for comments on the subject report, I have included detailed comments in an Enclosure (TAB A) that specifically address our issues with the report. The Project Manager and the Program Executive Officer have expressed their concerns about this report in earlier interactions with your staff. Given the extent of the different views we request the dissenting comments be published as part of the report and not as an addendum.

We fully support your office in your efforts to identify and fix those rules, regulations, and statutes that restrict our acquisition managers in the execution of their charters. In time of war we all need to work together to get the best equipment to our Soldiers, Sailors, Airmen, and Marines at the best value for our Nation.

Sincerely,

A handwritten signature in cursive script, reading "Jeffrey A. Sorenson".

Jeffrey A. Sorenson  
Major General, GS  
Deputy for Acquisition and  
Systems Management

DOD Inspector General Draft of a Proposed Report  
September 26, 2006  
Competition of the 5.56-Millimeter Carbine  
(Project No.: Project No. D2006-D000AE-0180.000)

**Report Page Numbers:** i, 3, 7

**Paragraphs commenting on:** (U) Results, Release of the Pre-solicitation Notice for a New 5.56-Millimeter Carbine (U), and Conclusion (U).

**Comments/Additional Facts:** The DoDIG Proposed Report contends that PEO Soldier prematurely released the pre-solicitation notice for the competition of the 5.56 mm carbine before it contacted Colt Defense LLC to determine whether it would lower unit prices on future M4 carbines, conducted a business case analysis to determine whether the competition was justified, and obtained approval from senior Army leadership.

This report further quotes two passages from the DoD 5000 series on page 3:  
“(U) DoD Directive. DoD Directive 5000.1 requires milestone decision authorities and project managers to examine and, as appropriate, adopt innovative practices, including best commercial practices and electronic business solutions, that reduce cycle time and cost, and encourage teamwork.”

“(U) DoD Instruction. DoD Instruction 5000.2 requires the milestone decision authority and the program manager to use discretion and prudent business judgment to structure a tailored, responsive, and innovative program.”

The Army submits that the issuance of the pre-solicitation notice before contacting Colt Defense LLC was the primary reason the company decided to entertain and eventually lower the unit prices on future M4 carbines. Prior to the release of the pre-solicitation notice, Colt was the Army's sole source contractor since 1993, and had not demonstrated any incentive to consider a price reduction. The Army saw a steady growth from a unit price of \$523.84 in 2001 to a price of \$980 in 2005. Unfortunately, the procedures we have at our disposal limit our ability to force a supplier to change his processes to more efficient ones. As a result, we saw continuing cost growth on the part of Colt, and their previously demonstrated unwillingness to lower prices.

Full and Open Competition is the preferred method of acquisition as stated in the Competition in Contracting Act and as affirmed in the President's Management Agenda and a myriad of other statutes and policy documents. The PEO was following the proper procedures in considering Full and Open Competition first. Further, a Business Case Analysis (BCA) is normally conducted only to justify an acquisition utilizing other than full and open competition. This BCA was conducted at the specific request of the MILDEP, and was not required. The PEO agreed that it would be good idea and directed the PM to conduct it. The BCA was initiated without input from Colt, but once Colt provided revised pricing, it was included in the BCA. No attempt was made to justify a decision with incomplete data.



Throughout the process, the PEO Soldier used prudent business judgment and utilized best commercial practices to obtain best information in order for the AAE to make an informed decision.

**Report Page Numbers: i, 3**

**Paragraphs commenting on:** (U) Results, (U) last paragraph and Release of the Pre-solicitation Notice for a New 5.56-Millimeter Carbine (U), last sentence

**Comments/Additional Facts:** The proposed report contends that the Army's internal controls for the 5.56-mm carbine competition were not adequate and that DoDIG identified a material internal control weakness in the process preceding the release of the pre-solicitation notice for the carbine competition.

The Army submits that the internal controls for the 5.56-mm carbine competition were adequate and no material internal control weaknesses were present. The process included high level IPT meetings between PEO Soldier personnel, TACOM-RI Acquisition Executives, Picatinny Acquisition Executives, Principal Assistant Responsible for Contracting, and Legal representatives. The pre-solicitation notice informed industry that the Army intended to competitively acquire a 5.56-mm carbine based on an existing performance requirement. It also stated that a Request for Proposal would be posted at a later date. The notice did not require the industry to respond or to expend any resources. The pre-solicitation notice was simply an advanced announcement of a potential solicitation, just as an Advanced Planning Briefing to Industry (APBI) Conference lays out to industry future opportunities.

**Report Page Number: 1**

**Paragraph commenting on:** (U) Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (ASA(ALT))

**Comments/Additional Facts:** The proposed report states that the Assistant Secretary of the Army (Acquisition, Logistics, and Technology), as the Army Acquisition Executive, is responsible for acquisition matters within the Department of the Army and is the single decision authority for all Army acquisition matters.

Per AR 70-1, the Army Acquisition Executive (AAE) serves as the Milestone Decision Authority (MDA) for ACATs IC, IAC, and II programs and the MDA for ACAT III programs is the General Officer (GO) or member of the Senior Executive Service (SES) to whom this responsibility has been assigned. This designation is by duty position. The Directorate for Acquisition and Industrial Base Policy of ASA(ALT) further clarified the AR 70-1 assignment of ACAT III programs below:

**3-2. Categories of acquisition programs and MDA**

e. ACAT III. ACAT III programs are defined as those acquisition programs that do not meet the criteria for an ACAT I, ACAT IA, or ACAT II. The **MDA is designated by the**

**AAE** and will be the lowest appropriate level. This category includes non-major AIS programs. [note: for ACAT III, when a PEO is assigned, the duty position as a general rule has ACAT III MDA inherent in it. This is per an AAE decision and it is, therefore, reasonable for a PEO to expect designation as MDA for ACAT III programs. A "blanket" designation to PEOs of existing ACAT III programs was given by the AAE in the 2001 timeframe, consequently, no designation memo for those programs is required; the duty position conveys MDA for those ACAT III programs. For programs initiated subsequent to the 2001 "blanket" designation, a specific designation is still required.] The M4 was a pre-2001 program and came under the blanket designation. Since the carbine program is an ACAT III program the PEO was within his scope of authority to release the pre-solicitation notice.

**Report Page Number: 5**

**Paragraphs commenting on:** (U) Senior Army Leadership Decision, last sentence.

**Comments/Additional Facts:** The report contends that the ASA(ALT) cancelled the requirement for a non-developmental 5.56-mm carbine and solicitation. The ASA(ALT) did not cancel the requirement; he cancelled the need for a competition in order to fulfill that requirement. The Army continues to procure 5.56-mm Carbines.

**Report Page Numbers: 6, 7**

**Paragraphs commenting on:** (U) Resource Expenditures and Conclusion (U)

**Comments/Additional Facts:** The report contends that the premature release of the pre-solicitation notice may have resulted in the unnecessary use of resources. Specifically, potential offerors may have expended resources in preparing responses to the pre-solicitation notice before ASA(ALT) cancelled it. In addition, the Government spent time and effort issuing the pre-solicitation notice.

As stated previously, the pre-solicitation notice informed industry that the Army intended to competitively acquire a 5.56-mm carbine based on an existing performance requirement. It also stated that a Request for Proposal would be posted at a later date. The notice did not require the industry to respond or to expend any resources. The pre-solicitation notice was simply an advanced announcement of a potential solicitation, just as an Advanced Planning Briefing to Industry (APBI) Conference lays out to industry future opportunities. As for the Government spending time and effort issuing the notice, not only is this type of effort part of a normal PM operating cost, the Army submits that the return on investment in terms of lower unit price from Colt LLC more than outweighed the time spent in preparing and issuing the notice.

**Report Page Number: 6**

**Paragraphs commenting on:** (U) Contractor Suggestions.

**Comments/Additional Facts:** The report identifies suggestions from contractors on the Army solicitation process: specifically that the Army often engages industry for its response to a Solicitation and then cancels the competition. Additionally the contractor suggests that the Army more completely staff either a solicitation or pre-solicitation

notice before issuing those documents so that the Defense industry is not needlessly energized.

In this case the Army did not release a Solicitation and so no industry effort or response was necessary. Further the pre-solicitation notice which was issued was properly and completely staffed from the PM office, through contracts and legal offices at both Picatinny and TACOM HQ, and through the PEO.

**Report Page Number: 11**

**Paragraphs commenting on:** Appendix B. Glossary (U), (U) Pre-solicitation Notice, second paragraph.

**Comments/Additional Facts:** The report contends that the pre-solicitation notice invites potential offerors to submit information that allows the Government to advise the offerors about their potential to be viable competitors.

A pre-solicitation notice is an advance notification to industry that a potential Request for Proposal is planned at a future date. The statement in the report partially describes a Market Survey/Sources Sought announcement but none of this information is used to advise contractors about their potential to be viable competitors.



## **Team Members**

The Office of the Deputy Inspector General for Auditing of the Department of Defense, Acquisition and Contract Management prepared this report. Personnel of the Office of the Inspector General of the Department of Defense who contributed to the report are listed below.

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